

Ky. OAG 77-559, 1977 WL 28059 (Ky.A.G.)

*1 Office of the Attorney General
Commonwealth of Kentucky

OAG 77-559

September 1, 1977

Honorable John Marshall Prewitt
Attorney at Law

Dear Mr. Prewitt:

This is in response to your letter of August 18 in which you request that we reconsider the conclusions reached in OAG 77-188 in which we construed [KRS 96. 150](#) as requiring that the area serviced outside of the city by the city's water system must adjoin or touch the city in view of the use of the word "contiguous" in said statute and, as a consequence, the city could not service any territory located in another county that did not touch the city.

We have reconsidered the referred to opinion and believe that the conclusion reached therein is in error in that the term "contiguous" as used in [KRS 96. 150](#) is too narrowly construed to reach a reasonable and practicable result that was apparently intended by the legislature in permitting a city to extend its water service to areas outside the geographical limits of the city. As a matter of fact, in OAG 69-244 [copy attached] we construed [KRS 96. 150](#) and the term "contiguous" as used therein, as not prohibiting the city from extending its water system to service areas that do not adjoin the city limits.

In the attached opinion we point out that [KRS 96.130](#) permits any city to furnish water to another city with no reference to the necessity of the two cities being contiguous to each other, which in most instances would be extremely rare except in extensively populated counties, such as Jefferson. Since there are no known Kentucky cases on this question, we cited a South Carolina case in OAG 69-244 which does appear to be in point and from which we quote the following excerpt:

"We have found one foreign case styled [Paris Mountain Water Company v. City of Greenville](#), 110 S.C. 36, 96 S.E. 545, in which one of the questions raised involved a water extension made to a territory which was noncontiguous to the city. The controlling statute was similar to ours. The court rejected the contention on the ground, however, that no proof had been submitted showing the basis for this contention. At the same time, though, the court said:

"'It is a matter of common knowledge that generally the water supply and

reservoirs and lead pipes of many towns are of necessity many miles without the corporate limis. It is also a matter of common knowledge that many of the towns of the state, and chief amongst them Greenville, are surrounded by manufacturing plants domiciled just out of the corporate limits, and by suburban villages operated under separated charters, and divided off from the city by an arbitrary line."'

In all probability, the legislature simply had in mind that where the extension of lead water mains originate within the city their extension to any territory outside the city made such territory "contiguous" to the city regardless of the location of the actual area serviced. In any event, we so construe [KRS 96. 150](#) until the courts hold otherwise.

***2** Under the circumstances, OAG 77-188 is modified by OAG 69-244 to the extent of any conflict. This means, we believe, that a city may extend its water system from the city limits to service any area within the county and, in this instance, to an adjoining county under the terms of [KRS 96. 150](#)

Yours very truly,
Robert F. Stephens
Attorney General

By: Walter C. Herdman
Assistant Deputy Attorney General

Ky. OAG 77-559, 1977 WL 28059 (Ky.A.G.)
END OF DOCUMENT